

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BILLINGS DIVISION

JAY LYNDES,

Plaintiff,

vs.

FEDEX GROUND PACKAGE
SYSTEM, INC.,

Defendant.

CV 23-17-BLG-SPW

ORDER ADOPTING
FINDINGS AND
RECOMMENDATIONS

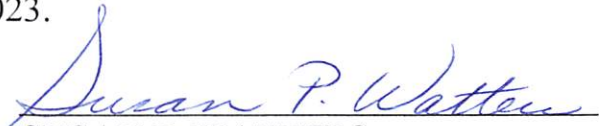
Before the Court are United States Magistrate Judge Timothy Cavan's Findings and Recommendations, filed December 28, 2023. (Doc. 18). Judge Cavan recommended the Court deny Defendant FedEx Ground Package System, Inc.'s Motion to Dismiss. (Doc. 8).

The parties were required to file written objections within 14 days of the filing of Judge Cavan's Findings and Recommendations. 28 U.S.C. § 636(b)(1). Neither party objected to the Findings and Recommendations, and so waived their right to de novo review of the record. *See* 28 U.S.C. § 636(b)(1)(C). This Court reviews for clear error those findings and recommendations to which no party objects. *See McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981); *Thomas v. Arn*, 474 U.S. 140, 149 (1985). Clear error exists if the Court is left with a "definite and firm conviction that a mistake has been committed."

Government of Guam v. Guerrero, 11 F.4th 1052, 1059 (9th Cir. 2021) (quoting *C.I.R. v. Duberstein*, 363 U.S. 278, 291 (1960)). After reviewing the Findings and Recommendations, this Court does not find that Judge Cavan committed clear error.

Accordingly, IT IS HEREBY ORDERED that Judge Cavan's Findings and Recommendations (Doc. 18) are ADOPTED IN FULL. Defendant FedEx Ground Package System, Inc.'s Motion to Dismiss under Federal Rule of Civil Procedure 12(b)(6) (Doc. 8) is DENIED.

DATED this 12th day of January, 2023.


SUSAN P. WATTERS
United States District Judge